

The issue raised by the claimant is a jurisdictional issue that grants Appeals Board review of a preliminary hearing order. See K.S.A. 44-534a, as amended by S.B. 649 (1996).

Respondent does not challenge the fact that claimant injured his right shoulder when he fell from a semi-tractor while it was parked in his driveway at home on April 28, 1995. Respondent does dispute, however, that claimant's injury was a result of an accident that arose out of and in the course of his employment with the respondent.

At the time of claimant's injury he was in the process of packing clean clothes and clean bedding in preparation of traveling to Hillsboro, Kansas, to pick up a load of honey. Claimant was an owner/operator, over-the-road truck driver employed by the respondent. Claimant owned the semi-tractor and respondent owned the trailers. Claimant was employed by the respondent to haul products exclusively for the respondent at the direction of the respondent. The parties stipulated that claimant and respondent had an employee/employer relationship for purposes of coverage under the Workers Compensation Act.

Claimant argued that his injury is compensable because the semi-tractor, even though located at his home, should be construed as the premises of the respondent. Claimant also argued that he was working for the respondent at the time of the accident because the packing activity that he was performing was an inherently necessary act required by the respondent. On the other hand, respondent argued that claimant's injury is not compensable because the accident did not occur on respondent's premises and, further, claimant was not at work for the respondent when the accident occurred.

The Appeals Board finds that claimant had not commenced performing work in the services of the respondent when he fell from the semi-tractor parked in his driveway. Therefore, the accident did not occur while claimant was in the course of his employment with the respondent. Furthermore, the Appeals Board finds that the packing activities that claimant was performing when injured were personal in nature and did not arise out of the nature, conditions, obligations or incidents of his employment. See Springston v. IML Freight, Inc., 10 Kan. App. 2d 501, 502, 704 P.2d 394, rev. denied 238 Kan. 878 (1985). Accordingly, the Appeals Board affirms the Administrative Law Judge's decision that denied claimant's claim for preliminary compensation benefits.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order of Administrative Law Judge Bruce E. Moore dated April 12, 1996, should be, and is hereby, affirmed in all respects.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 1996.

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BOARD MEMBER

c: Richard M. Blackwell, Salina, KS  
Karen Pendland, Kansas City, MO  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director